



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket No. 52-036; NRC-2008-0616]

Entergy Operations, Inc.

Combined License Application for River Bend Station Unit 3

Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to an October 16, 2014, letter from Entergy Operations, Inc. (EOI) which requested an exemption to suspend maintaining the Departures Report and the design control document (DCD) Update Report until December 31, 2015, or coincident with resuming the review of the for River Bend Station Unit 3 (RBS3) Combined License (COL) application, whichever comes first. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption.

ADDRESSES: Please refer to Docket ID **NRC-2008-0616** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2008-0616**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may access publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that the document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Lynnea Wilkins, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC, 20555-0001; telephone: 301-415-5136; e-mail: Lynnea.Wilkins@nrc.gov.

SUPPLEMENTARY INFORMATION:

The following sections include the text of the exemption in its entirety as issued to EOI.

I. Background

The NRC accepted for docketing the River Bend Station Unit 3 (RBS3) COL application on December 4, 2008 (ADAMS Accession No. ML083370275, Docket No. 52-036). On January 9, 2009, EOI requested that the NRC temporarily suspend review of the application and the NRC granted EOI's request (ADAMS Accession No. ML090080277) while the application remained docketed. On October 16, 2014, (ADAMS Accession No. ML14289A521), EOI requested an exemption from the requirements of 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b until December 31, 2015, or coincident with resuming the review of the for RBS3 COL application, whichever comes first.

II. Request/Action

10 CFR Part 52, Appendix E, Paragraph X.A.1 requires that the applicant for this appendix shall maintain a copy of the generic DCD [design control document] that includes all generic changes it makes to Tier 1 and Tier 2, and the generic TS and other operational requirements. The applicant shall maintain sensitive unclassified non-safeguards information (including proprietary information and security-related information) and safeguards information referenced in the generic DCD for the period that this appendix may be referenced, as specified in Section VII of this appendix.

10 CFR Part 52, Appendix E, Paragraph X.A.2 requires that an applicant or licensee who references this appendix shall maintain the plant-specific DCD to accurately reflect both generic changes to the generic DCD and plant-specific

departures made under Section VIII of this appendix throughout the period of application and for the term of the license (including any period of renewal).

10 CFR Part 52, Appendix E, Paragraph X.B.3.b requires that during the interval from the date of application for a license to the date the Commission makes its findings required by 10 CFR 52.103(g), the [Departures] report must be submitted semiannually. Updates to the plant-specific DCD must be submitted annually and may be submitted along with amendments to the application.

By letter dated January 9, 2009, EOI requested that the NRC suspend review of the RBS3 COL application. The NRC granted EOI's request for suspension of all review activities while the application remained docketed. In a letter dated, October 16, 2014, EOI requested an exemption from the requirements of 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b until December 31, 2015 or coincident with resuming the review of the for RBS3 COL application, whichever comes first.

EOI's requested exemption is seen as a schedule change from the requirements of 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b. The exemption would allow EOI to suspend maintaining the Departures Report and the DCD Update Report and forego submitting these reports until December 31, 2015, or coincident with resuming the review of the RBS3 COL application, whichever comes first.

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, including 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b, when: (1) the exemption(s) are authorized by law, will not present an undue risk to public health or

safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: “application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule” (10 CFR 50.12(a)(2)(ii)); “compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated (10 CFR 50.12(a)(2)(iii)) or; “the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation” (10 CFR 50.12(a)(2)(v)).

The purposes of 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b are to maintain reports pertaining to the ESBWR and plant-specific DCDs associated with a COL application current and to provide timely, current, comprehensive reports and updates in order to support an effective and efficient review by NRC staff and issuance of the staff’s safety evaluation report.

Because EOI requested the NRC to suspend its review of the RBS3 COL application, the Departures Report and DCD Update, if provided, would not be reviewed by the NRC. Therefore, compelling EOI to provide Departures Report and DCD Update would result in an unnecessary burden and hardship for the applicant. For this reason the application of 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b can be deemed unnecessary and therefore, special circumstances are present.

Authorized by Law

The exemption is a temporary exemption from the requirements of 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b. The exemption would allow EOI to suspend

maintaining the Departures Report and the DCD Update Report and forego submitting these reports until December 31, 2015, or coincident with resuming the review of the RBS3 COL application, whichever comes first. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 52. The NRC staff has determined that granting EOI the requested exemption from the requirements of 10 CFR Part 50, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b will be only temporary, and will not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purposes of 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b are to maintain reports pertaining to the ESBWR and plant-specific DCDs associated with a COL application current and to provide timely, current, comprehensive reports and updates in order to support an effective and efficient review by NRC staff and issuance of the staff's safety evaluation report. The requested exemption is administrative in nature in that it pertains to activities for which a license has not been granted; hence, there are no safety implications. Specifically, there are no new health or safety issues created and no increase in the probability of postulated accidents or their consequences associated with this exemption request. Therefore, there is no undue risk to public health and safety.

Consistent with Common Defense and Security

The exemption would allow EOI to suspend maintaining the Departures Report and the DCD Update Report and forego submitting these reports until December 31, 2015, or coincident with resuming the review of the RBS3 COL application, whichever

comes first. This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2), are present whenever “application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule” (10 CFR 50.12(a)(2)(ii)); compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated (10 CFR 50.12(a)(2)(iii)) or; “the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation” (10 CFR 50.12(a)(2)(v)). The underlying purposes of 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b are to maintain reports pertaining to the ESBWR and plant-specific DCDs associated with a COL application current and to provide timely, current, comprehensive reports and updates in order to support an effective and efficient review by NRC staff and issuance of the staff’s safety evaluation report.

Because the requirement to maintain reports pertaining to the ESBWR and plant-specific DCDs associated with a COL application was intended for active reviews and the RBS3 COL application review is now suspended, the application of this regulation in this particular circumstance is unnecessary in order to achieve its underlying purpose. If the NRC were to grant this exemption EOI would then be required to comply by the earlier of a restart or the review or December 31, 2015, and the purpose of the rule would still be achieved. Additionally, because EOI requested the NRC to suspend its review of the GGNS COL application, the Departures Report and DCD Update, if provided, would not be

reviewed by the NRC. Therefore, compelling EOI to provide Departures Report and DCD Update would result in an unnecessary burden and hardship for the applicant.

In addition, the exemption is a temporary exemption from the requirements of 10 CFR Part 52, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b. EOI has made good faith efforts to comply with the regulation. The exemption would allow EOI to suspend maintaining the Departures Report and the DCD Update Report and forego submitting these reports until December 31, 2015, or coincident with resuming the review of the GGNS COL application, whichever comes first.

Therefore, the special circumstances required by 10 CFR 50.12(a)(2)(ii), (iii), and (v) for the granting of an exemption from 10 CFR Part 50, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b exist.

Eligibility for Categorical Exclusion from Environmental Review:

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25) and justified by the NRC staff as discussed below.

10 CFR 51.22(c)(25)(i): The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92(c)(1)-(3). The proposed action involves only a schedule change regarding the submission of an update to the application for which the licensing review has been suspended. There are no significant hazards considerations because granting the proposed exemption would not involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated or involve a significant reduction in a margin of safety.

10 CFR 51.22(c)(25)(ii): The proposed action involves only a schedule change which is administrative in nature, and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

10 CFR 51.22(c)(25)(iii): Since the proposed action involves only a schedule change which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

10 CFR 51.22(c)(25)(iv): The proposed action involves only a schedule change which is administrative in nature; the COL application review is suspended until further notice, and there is no consideration of any construction at this time, and hence the proposed action does not involve any construction impact.

10 CFR 51.22(c)(25)(v): The proposed action involves only a schedule change which is administrative in nature, and does not impact the probability or consequences of radiological accidents.

10 CFR 51.22(c)(25)(vi)(B) and (G): The exemption request involves submitting an updated COL application by EOI and relates to the schedule for submitting a COL application update to the NRC.

IV. Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1) and (2), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also special circumstances as described in 10 CFR 50.12(a)(2)(ii), (iii), and (v) are present. Therefore, the Commission hereby grants EOI the exemption from the requirements of 10 CFR Part 50, Appendix E, Paragraphs X.A.1, X.A.2, and X.B.3.b pertaining to the River Bend Station Unit 3

COL application to allow submittal of the Departures Report and the DCD Update Report the earlier of any request to the NRC to resume the review or by December 31, 2015.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 22nd day of December 2014.

FOR THE NUCLEAR REGULATORY COMMISSION

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